

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Harry W. H. Yen, M.D.

**Physician's and Surgeon's
Certificate No. G 51432**

Respondent.

Case No. 800-2019-057544

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on May 20, 2022.

IT IS SO ORDERED May 13, 2022.

MEDICAL BOARD OF CALIFORNIA



**William Prasifka
Executive Director
Medical Board of California**

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 BRIAN D. BILL
Deputy Attorney General
4 State Bar No. 239146
Department of Justice
5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 269-6461
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2019-057544

12 **HARRY W. H. YEN, M.D.**
13 **333 S Hope Street**
Los Angeles, CA 90071-1406

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Physician's and Surgeon's**
15 **Certificate No. G 51432,**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
21 California (Board). He brought this action solely in his official capacity and is represented in this
22 matter by Rob Bonta, Attorney General of the State of California, by Brian D. Bill, Deputy
23 Attorney General.

24 2. Harry W. H. Yen, M.D. (Respondent) is represented in this proceeding by attorney
25 Lindsay M. Johnson of Ray and Bishop, PLC, whose address is: 4100 Newport Place, Suite 670,
26 Newport Beach, CA 92660.

27 3. On or about October 11, 1983, the Board issued Physician's and Surgeon's Certificate
28 No. G 51432 to Respondent. The Physician's and Surgeon's Certificate was in full force and

effect at all times relevant to the charges brought in Accusation No. 800-2019-057544 and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-057544 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. A copy of Accusation No. 800-2019-057544 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-057544. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2019-057544, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those

1 charges.

2 10. Respondent understands that by signing this stipulation he enables the Board to issue
3 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
4 process.

5 **CONTINGENCY**

6 11. This stipulation shall be subject to approval by the Board. Respondent understands
7 and agrees that counsel for Complainant and the staff of the Board may communicate directly
8 with the Board regarding this stipulation and surrender, without notice to or participation by
9 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
10 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
11 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
12 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
14 be disqualified from further action by having considered this matter.

15 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
17 thereto, shall have the same force and effect as the originals.

18 13. This Stipulated Surrender of License and Order is intended by the parties herein to be
19 an integrated writing representing the complete, final and exclusive embodiment of the agreement
20 of the parties in this above entitled matter.

21 14. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following Order:

23 **ORDER**

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 51432, issued
25 to Respondent HARRY W. H. YEN, M.D., is surrendered and accepted by the Board.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a part

1 of Respondent's license history with the Board.

2 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
3 California as of the effective date of the Board's Decision and Order.

4 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
5 issued, his wall certificate on or before the effective date of the Decision and Order.

6 4. If Respondent ever files an application for licensure or a petition for reinstatement in
7 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
8 comply with all the laws, regulations and procedures for reinstatement of a revoked or
9 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
10 contained in Accusation No. 800-2019-057544 shall be deemed to be true, correct and admitted
11 by Respondent when the Board determines whether to grant or deny the petition.

12 5. If Respondent should ever apply or reapply for a new license or certification, or
13 petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation No. 800-2019-057544 shall
15 be deemed to be true, correct and admitted by Respondent for the purpose of any Statement of
16 Issues or any other proceeding seeking to deny or restrict licensure.

17 **ACCEPTANCE**

18 I have carefully read the above Stipulated Surrender of License and Order and have fully
19 discussed it with my attorney Lindsay M. Johnson. I understand the stipulation and the effect it
20 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
21 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Medical Board of California.

23
24
25 DATED: 3/5/2022

Harry W. H. Yen, M.D. m.p.
HARRY W. H. YEN, M.D.
Respondent

26
27 ///

28 ///

1 I have read and fully discussed with Respondent HARRY W.H. YEN, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: 03/11/2022


LINDSAY M. JOHNSON
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10
11 DATED: _____

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 EDWARD KIM
Supervising Deputy Attorney General

15
16 BRIAN D. BILL
17 Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent HARRY W.H. YEN, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: _____

LINDSAY M. JOHNSON
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10
11 DATED: March 21, 2022

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 EDWARD KIM
Supervising Deputy Attorney General

Brian D. Bill

15
16 BRIAN D. BILL
17 Deputy Attorney General
Attorneys for Complainant

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19 LA2022600334
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Exhibit A

Accusation No. 800-2019-057544

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 BRIAN D. BILL
Deputy Attorney General
4 State Bar No. 239146
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5 300 So. Spring Street, Suite 1702
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9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2019-057544

12 **HARRY W.H. YEN, M.D.**
13 **333 S Hope Street**
Los Angeles, CA 90071-1406

A C C U S A T I O N

14 **Physician's and Surgeon's**
15 **Certificate No. G 51432,**

16 Respondent.

17 **PARTIES**

18 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
19 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
20 (Board).

21 2. On or about October 11, 1983, the Board issued Physician's and Surgeon's Certificate
22 Number G 51432 to Harry W.H. Yen, M.D. (Respondent). The Physician's and Surgeon's
23 Certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on March 31, 2023, unless renewed. The Physician's and Surgeon's Certificate is currently
25 in retired status and Respondent is not permitted to practice medicine.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code (Code) unless otherwise

1 indicated.

2 4. Section 2227 of the Code states:

3 A. A licensee whose matter has been heard by an administrative law judge of
4 the Medical Quality Hearing Panel as designated in Section 11371 of the
5 Government Code, or whose default has been entered, and who is found guilty, or
6 who has entered into a stipulation for disciplinary action with the board, may, in
accordance with the provisions of this chapter:

7 (1) Have his or her license revoked upon order of the board.

8 (2) Have his or her right to practice suspended for a period not to exceed one
year upon order of the board.

9 (3) Be placed on probation and be required to pay the costs of probation
10 monitoring upon order of the board.

11 (4) Be publicly reprimanded by the board. The public reprimand may include a
requirement that the licensee complete relevant educational courses approved by the
12 board.

13 (5) Have any other action taken in relation to discipline as part of an order of
probation, as the board or an administrative law judge may deem proper.

14 B. Any matter heard pursuant to subdivision (a), except for warning letters,
15 medical review or advisory conferences, professional competency examinations,
16 continuing education activities, and cost reimbursement associated therewith that are
agreed to with the board and successfully completed by the licensee, or other matters
made confidential or privileged by existing law, is deemed public, and shall be made
17 available to the public by the board pursuant to Section 803.1.

18 **STATUTORY PROVISIONS**

19 5. Section 2234 of the Code states:

20 The board shall take action against any licensee who is charged with
21 unprofessional conduct. In addition to other provisions of this article, unprofessional
conduct includes, but is not limited to, the following:

22 (a) Violating or attempting to violate, directly or indirectly, assisting in or
23 abetting the violation of, or conspiring to violate any provision of this chapter.

24 (b) Gross negligence.

25 (c) Repeated negligent acts. To be repeated, there must be two or more
negligent acts or omissions. An initial negligent act or omission followed by a
26 separate and distinct departure from the applicable standard of care shall constitute
repeated negligent acts.

27 (1) An initial negligent diagnosis followed by an act or omission medically
28 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

8. Respondent treated Patient 1¹ from in or around September 2016 through in or around November 2019 ("Treatment Period").² Patient 1 complained of chronic pain in her neck, shoulders, and arms after a neck fusion surgery. Patient 1 was also diagnosed with chronic obstructive pulmonary disease ("COPD"), asthma, heart disease, high blood pressure, recurring cough, bronchitis, and bronchial infections.

¹ The patient is identified by a number to address privacy concerns.

² These are approximate dates based on the records available for review. Patient No. 1 may have treated with Respondent before or after these dates.

1 9. Prior to the Treatment Period, another physician treated Patient 1's chronic pain and
2 prescribed OxyContin, 40 mg, three times per day every month for several years. In or around
3 2016, Respondent assumed responsibility for managing Patient 1's chronic pain issues.

4 10. During the Treatment Period, Respondent prescribed the following

- 5 a. Oxycodone HCL-Acetaminophen 325-10 mg.³
- 6 b. OxyContin 40 mg.⁴
- 7 c. Hydrocodone 325-10 mg.⁵
- 8 d. Diazepam 10 mg.⁶
- 9 e. Lorazepam, 0.5 mg.⁷

10 11. During the Treatment Period, Respondent did not appropriately manage Patient 1's
11 use of prescribed controlled substances, as Respondent did not:

- 12 a. Refer Patient 1 to appropriate subspecialists;
- 13 b. Investigate Patient 1's several inconsistent urine toxicology tests and/or
14 failing to require that Patient 1 submit to retesting after receipt of an inconsistent urine toxicology
15 test;
- 16 c. Attempt to control Patient 1's pain through non-medical treatment
17 modalities; and
- 18 d. Appropriately monitor Patient 1's use of prescribed controlled substances.

19 12. During the Treatment Period, Respondent did not maintain adequate records of his
20

21 ³ Generally 100 tablets per month between on or about March 11, 2019 and November 15,
22 2019.

23 ⁴ Generally 60 to 90 tablets per month between on or about September 12, 2016 and on or
24 about November 19, 2019.

25 ⁵ Approximately 50 tablets per month between on or about September 14, 2016 and on or
26 about December 20, 2018.

27 ⁶ Respondent prescribed 30 tablets on or about each of: July 25, 2017, December 11,
28 2017, March 19, 2018, April 12, 2018, June 29, 2018, October 21, 2018, April 3, 2019,
September 30, 2019, and November 7, 2019.

⁷ Respondent prescribed 30 tablets on or about December 16, 2016.

1 care and treatment of Patient 1, as Respondent did not adequately:

- 2 a. Document whether he referred Patient 1 to appropriate subspecialists;
- 3 b. Document whether he conducted a mental health review of Patient 1; and
- 4 c. Document his instructions to Patient 1 regarding concomitant use of
- 5 controlled substances.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Monitoring Prescribed Controlled Substance Use)**

8 13. Respondent Harry W.H. Yen, M.D. is subject to disciplinary action under California
9 Business and Professions Code, section 2234, in that Respondent committed unprofessional
10 conduct. The circumstances are as follows:

11 14. The facts and circumstances alleged in Paragraphs 8 through 12, above, are
12 incorporated by reference as if set forth in full herein.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Failure to Follow Recommended Documentation Guidelines**

15 **for the Management of a Patient on a Controlled Substance)**

16 15. Respondent Harry W.H. Yen, M.D. is subject to disciplinary action under California
17 Business and Professions Code, section 2266 in that Respondent failed to properly document his
18 care and treatment of Patient 1. The circumstances are as follows:

19 16. The facts and circumstances alleged in Paragraphs 8 through 14, above, are
20 incorporated by reference as if set forth in full herein.

21 **PRAYER**


22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Medical Board of California issue a decision:

- 24 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 51432,
- 25 issued to Respondent Harry W.H. Yen, M.D.;
- 26 2. Revoking, suspending or denying approval of Respondent Harry W.H. Yen, M.D.'s
- 27 authority to supervise physician assistants and advanced practice nurses;
- 28 3. Ordering Respondent Harry W.H. Yen, M.D., to pay the Board the costs of the

investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: **FEB 23 2022**


 WILLIAM PRASIFKA
 Executive Director
 Medical Board of California
 Department of Consumer Affairs
 State of California
 Complainant

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